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LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/11/2021	.	
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The Committee on Rules (Book) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 768.38, Florida Statutes, is created to
read:

768.38 Immunity for educational institutions for actions
related to the COVID-19 pandemic.-

(1) For the purposes of this section, the term "educational
institution" means a school, including a preschool, an
elementary school, a middle school, a junior high school, a



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12 secondary school, a career center, or a postsecondary school,
13 whether public or nonpublic.

14 (2) Any educational institution that has taken reasonably
15 necessary actions in compliance with federal, state, or local
16 guidance to diminish the impact or the spread of COVID-19 may
17 not be held liable for, and shall be immune from, any civil
18 damages, equitable relief, or other remedies relating to such
19 actions. Reasonably necessary actions include, but are not
20 limited to, any of the following:

21 (a) Shifting in-person instruction to online or remote
22 instruction for any period of time while a state of emergency
23 was declared for this state for the COVID-19 pandemic;

24 (b) Closing or modifying the provision of residential
25 housing, dining, or other facilities on the campus of the
26 educational institution; or

27 (c) Pausing or modifying ancillary student activities and
28 services available through the educational institution while a
29 state of emergency was declared for this state for the COVID-19
30 pandemic.

31 (3) The provision of in-person or on-campus education and
32 related services is deemed to have been impossible for
33 educational institutions to provide for any period of time in
34 which such institutions took reasonably necessary actions
35 described in subsection (2) to protect students, staff, and
36 educators in response to the COVID-19 pandemic. As a result of
37 the various governmental orders and the need of educational
38 institutions to protect their communities, the reasonably
39 necessary actions described in subsection (2) are deemed to have
40 been justified.



41 (4) If any aspect of the immunity under subsection (2) is
42 limited by a court or by operation of law from applying to
43 certain types of claims or causes of action, the immunity under
44 this section must still be provided to the fullest extent
45 authorized by law to any other types of claims or causes of
46 action.

47 Section 2. If any provision of this act or its application
48 to any person or circumstance is held invalid, the invalidity
49 does not affect other provisions or applications of the act
50 which can be given effect without the invalid provision or
51 application, and to this end the provisions of this act are
52 severable.

53 Section 3. This act shall apply retroactively to causes of
54 actions accruing on or before March 9, 2020.

55 Section 4. This act shall take effect upon becoming a law.

56
57 ===== T I T L E A M E N D M E N T =====

58 And the title is amended as follows:

59 Delete everything before the enacting clause
60 and insert:

61 A bill to be entitled
62 An act relating to civil liability for damages
63 relating to COVID-19; creating s. 768.38, F.S.;
64 defining the term "educational institution"; providing
65 that educational institutions that have taken certain
66 actions may not be held liable for and are immune from
67 civil damages, equitable relief, or other remedies;
68 specifying that the provision of in-person or on-
69 campus education and related services is deemed



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70 impossible during a specified timeframe; specifying
71 that certain actions are deemed to have been
72 justified; providing construction; providing
73 severability; providing retroactive applicability;
74 providing an effective date.

75

76 WHEREAS, on March 9, 2020, Governor Ron DeSantis issued
77 Executive Order Number 20-52 declaring a state of emergency for
78 the State of Florida due to the COVID-19 pandemic, and

79 WHEREAS, in light of the ongoing nature of the COVID-19
80 pandemic, the Governor has repeatedly extended the state of
81 emergency, including most recently on February 26, 2021, in
82 Executive Order Number 21-45, and

83 WHEREAS, the State of Florida continues under a declared
84 state of emergency, and

85 WHEREAS, educational institutions have been required to
86 take actions to protect students, educators, and staff on their
87 campuses beginning in March 2020, and

88 WHEREAS, those actions included closing campuses to in-
89 person instruction, closing residential and student activity
90 facilities, and closing or modifying other on-campus facilities
91 and services, NOW, THEREFORE,